

No. 22-15961

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

DONALD J. TRUMP, AMERICAN CONSERVATIVE UNION,
RAFAEL BARBOSA, LINDA CUADROS, DOMINICK LATELLA,
WAYNE ALLYN ROOT AND NAOMI WOLF,

Plaintiffs-Appellants,

v.

TWITTER, INC., AND JACK DORSEY,

Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of California
Case No. 3-21-cv-08378-JD
Hon. James Donato, United States District Judge

**APPELLANTS DONALD J. TRUMP, AMERICAN CONSERVATIVE
UNION, RAFAEL BARBOSA, LINDA CUADROS, DOMINICK LATELLA,
AND WAYNE ALLYN ROOT'S MOTION FOR EXTENSION OF TIME TO
FILE RESPONSE TO SUGGESTION OF MOOTNESS
(RELIEF REQUESTED BY MARCH 24, 2023)**

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INTRODUCTION

Pursuant to Fed. R. App. P. 26(b) and 27 and Circuit Rule 31-2.2(b), Plaintiffs-Appellants Donald J. Trump, American Conservative Union, Rafael Barbosa, Linda Cuadros, Dominick Latella, and Wayne Allyn Root (“Plaintiffs”) hereby move that the deadline for Plaintiffs’ submission of a Response to Defendant’s Suggestion of Mootness (Dkt. 65) be extended until the ultimate deadline for Plaintiffs’ Reply Brief.

Intervenor United States does not oppose this motion. Counsel for Defendants has not responded to Plaintiffs’ question whether Defendants oppose this motion.

Defendants filed a Motion entitled “Appellees Twitter, Inc. and Jack Dorsey’s Suggestion of Mootness” (Dkt. 65) along with their Response Brief (Dkt. 62) on March 15, 2023. Thus, under Fed. R. App. P. 27(a)(3), Plaintiffs’ Reply to the Response is due Saturday, March 25, 2023, which is extended to Monday, March 27, 2023 under Fed. R. App. P. 26(a)(1)(c).

ARGUMENT

Under Circuit Rule 31-2.2(b), an extension of time may be granted if supported by a showing of diligence and substantial need. There is good cause to grant relief in this case.

Defendants’ “Suggestion of Mootness” (“Suggestion”) filing totals 58 pages including exhibits, and is substantially intertwined with arguments made in

Defendants’ Response Brief. The Suggestion explicitly references the mootness discussion in its principal brief (“As explained more thoroughly in Appellees’ principal brief . . .”). Indeed, the Suggestion cites no authorities, relying entirely on the Response Brief for that discussion. And that brief contains extensive discussion of the mootness issue, which Appellants will have to address. For example, page 15 of Defendants’ Response Brief includes a discussion of the denial of Plaintiff Naomi Wolf’s Rule 60(b) motion on mootness grounds, and pages 18-23 of Defendants’ Response Brief include a section arguing that Plaintiffs’ claims are moot (“Most of Plaintiffs’ First Amendment Claims Are Moot and Should Be Dismissed”). In addition, Defendants’ 58-page Suggestion filing raises complex and fact-dependent questions, including whether Mr. Trump’s and other Plaintiffs’ accounts were reinstated pursuant to Twitter’s new “general amnesty policy,” a “different business vision articulated by the company’s new ownership,” and/or at least in part in response to litigation. Further disputed factual issues include whether Defendants have ceased all of the challenged actions alleged in the First Amended Complaint, including shadow banning, adjusting their algorithms to suppress content, and labeling content Defendants arbitrarily consider to be “misleading.”

Appellants are working diligently to address both the mootness and merits arguments raised by respondents.

Granting Plaintiffs' present motion would enable Plaintiffs to address the arguments and materials in the Suggestion and the Response Brief in the same time-frame Appellees had in making these arguments. It would also allow the question of mootness to be decided by the merits panel in conjunction with its decision on the merits, which would serve the interests of justice given the substantial intertwining of Defendants' arguments in their Response Brief and Suggestion of Mootness filings.

For the foregoing reasons, Plaintiffs respectfully request that their motion be granted.

Dated: March 22, 2023

Respectfully submitted,

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**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Certificate of Compliance

9th Cir. Case Number(s): No. 22-15961

I am the attorney for Plaintiffs-Appellants Donald J. Trump, American Conservative Union, Rafael Barbosa, Linda Cuadros, Dominick Latella, and Wayne Allyn Root.

This brief contains 489 words, excluding the items exempted by Fed. R. App. P. 32(f). The brief's type size and typeface comply with Fed. R. App. P. 32(a)(5) and (6).

I certify that this brief (*select only one*):

☒ [X] complies with the word limit of Fed. R. App. P. 27(d)(2) and the page limit of Cir. R. 27-1(1).

☐ [] is a **cross-appeal** brief and complies with the word limit of Cir. R. 28.1-1.

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Signature: *s/ Andrei D. Popovici*

Date: March 22, 2023